

REMARKS

By this amendment, claims 1-3, 5, 7-13, 15, 17-21, and 23 are pending, in which claims 4, 6, 14, 16, and 22 are canceled without prejudice or disclaimer, claims 1, 5, 11, 15, and 21 are currently amended. No new matter is introduced.

The Office Action mailed March 17, 2009 rejected claims 1-23 under 35 U.S.C. § 102 as anticipated by *Doss et al.* (US 20030046296).

As an initial matter, it is noted that the Office Action indicates in the Summary section that the present Action is Non-final. However, page 9 of the Office Action in the Conclusions states to the contrary, that the Action is Final. It would appear that the Office Action is correct in the first instance, as no amendments were made to the claims that prompted the new grounds of rejection. The then newly added claims 21-23 did not introduce any new features, but merely captured previously presented features (e.g., found in claims 1, 4 and 8) within an “apparatus.” Therefore, Applicants contend, for the purposes of this response, that the indicated finality is premature, and respectfully request withdrawal of the finality.

Moreover, the amendment presented herein are made to reduce issues for potential appeal by incorporating the features of dependent claims 6 and 16 into their respective independent claims 1 and 11. Also, independent claim 21 has been amended to incorporate such features. Furthermore, these changes are not believed to raise new issues requiring further consideration and/or search, and it is therefore respectfully requested that the present amendment be entered under 37 C.F.R. §1.116.

Amended independent claims 1, 11, and 21 recite, *inter alia*, adjusting “an availability setting in commencement of an activity or a running of an application to the **highest one of a**

setting associated with the one application or the commenced activity and a setting associated with a selected operating profile.”

For a supposed teaching of the above features, the Office Action, on page6, refers to FIGs. 1-5, and paragraphs 14-17 and 20-22 of *Doss et al.*, explaining that “Doss et al. teaches user definable settings associated with availability settings.” Applicants do not necessarily disagree with the Examiner’s explanation; however, this is not what the claims recite. Rather, the claims recite setting to “the highest one of a setting....” *Doss et al.* is silent about any notion of determining a highest setting, but instead state the following (Emphasis Added):

[0014] A method, system, and product are disclosed for **providing dynamic contact information to instant messaging (IM) systems and electronic status boards**. This invention automates the changing of an entity's status on IM systems and electronic status boards, and also dynamically provides additional information that is not currently available with these systems.

[0015] **An electronic calendar is maintained that includes information about an entity (e.g., a person, airplane, etc.). As the information in the calendar changes, the information provided to the IM systems and electronic status boards is automatically updated.** Thus, when an entity's status changes, such as from being in the office and free to being in a meeting, the dynamic contact information will be automatically updated.

[0016] The dynamic contact information is composed of an entity's status and contact information. **An entity's status can have several aspects: available in person, available via cell phone, available via pager, and so forth.** Contact information is comprised of the information related to an entity's status, the preferences they've selected and information from the organizational directory. Examples of contact information include: the designated backup person, the best means to contact this entity, the entity's cell phone number, how long the entity will be available for calls on this number, and so on.

[0017] The dynamic contact information is derived from the entity's calendar, preferences, and organizational directory. The raw data is analyzed to identify time periods in which the entity has common status and contact information. At the start of each time period the dynamic contact information associated with that time period is provided to the IM servers and the status board servers. The IM

servers and status board servers (which will henceforth be referred to as status servers) will then publish this information to their subscribers/clients.

[0020] The present invention **permits a user to specify various preferences that define the amount and types of data displayed by the client.** For example, the user may wish to view all data or possibly only data pertaining to in-person availability. The user may also choose to display only those entities that are currently available in person. The client could accommodate this by displaying only the appropriate fields of the dynamic contact information and entities that meet the specified display preferences.

[0021] The present invention also **permits an entity to specify various preferences that define the amount of information to be provided by the system to users.** An entity can control whether or not information will be displayed to all users, to only a subset of users, or to all users except an explicitly defined set of specified users. Additionally, the entity can define the specific information that can be displayed. Combining these features allows an entity to identify which users can see which data fields. For example, an entity can specify that his cell phone information is not available to anyone, but his pager information is available to everyone. This feature enhances the current IM "who can see me" function by providing additional controls and automating the process. For example, an entity can specify that while in a meeting only people on the invitee list can see his IM presence. At the start time of the meeting the system automatically updates the entity's information; the invitees' IM clients indicate that the user is online while all other IM clients show that the user is not.

[0022] The above as well as additional objectives, features, and advantages of the present invention will become apparent in the following detailed written description.

For the above several passages, at best these passages describe how entity status is defined and updated, but provides no capability for adjusting availability setting based on a "highest" of any setting, much less "an availability setting in commencement of an activity or a running of an application to the **highest one of a setting associated with the one application or the commenced activity and a setting associated with a selected operating profile.**"

To better appreciate this stark distinction between the claims and the *Doss et al.* system, the Examiner is directed to page 6, lines 4-14 of Applicants' published Specification (WO 2004/057888). As explained in one embodiment, "[a]n availability setting can be considered to

be higher if it is more restrictive as to the availability of the mobile telephone 10 to communications from users connected to the network N... If the availability setting associated with the activity is in any way higher than the availability setting for the profile, the profile is adjusted accordingly.” Such capability can, for instance, advantageously reduce the amount of traffic communicated between the mobile telephone and the network (see page 6, lines 25-30).

As anticipation under 35 U.S.C. § 102 requires that each and every element of the claim be disclosed in a prior art reference, based on the foregoing, it is clear that *Doss et al.* fails to anticipate amended independent claims 1, 11, and 21, along with their corresponding dependent claims 2, 3, 5, 7-10, 12, 13, 15, 17-20, and 23.

Therefore, the present application, as amended, overcomes the rejection of record and is in condition for allowance. Favorable consideration is respectfully requested. If any unresolved issues remain, it is respectfully requested that the Examiner telephone the undersigned attorney at (703) 519-9952 so that such issues may be resolved as expeditiously as possible.

To the extent necessary, a petition for an extension of time under 37 C.F.R. §1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 504213 and please credit any excess fees to such deposit account.

Respectfully Submitted,

DITTHAVONG MORI & STEINER, P.C.

June 17, 2009
Date

/Phouphanomketh Ditthavong/
Phouphanomketh Ditthavong
Attorney/Agent for Applicant(s)
Reg. No. 44658

918 Prince Street
Alexandria, VA 22314
Tel. (703) 519-9952
Fax (703) 519-9958